

**JOHN A. LIGON**  
COUNSELLOR AT LAW

128 MOUNT HEBRON ROAD, P. O. BOX 880, UPPER MONTCLAIR, NJ 07043  
TELEPHONE 201 509-9192 FACSIMILE 201 509-9492

**ORIGINAL  
FILE**

**RECEIVED**

**JUN - 2 1992**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

June 1, 1992

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, DC 20554

**RECEIVED**

**JUN 2 1992**

Re: CC Docket No. 92-77

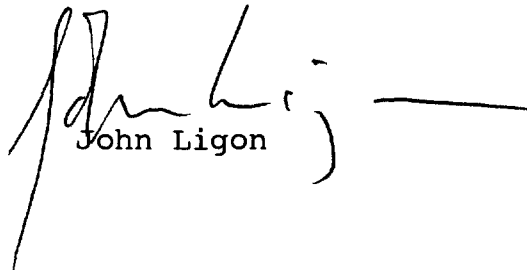
**FCC MAIL BRANCH**

Dear Ms. Searcy:

On behalf of ComTel Computer Corporation, I enclose an original and 4 copies of ComTel's Comments addressed to the May 8, 1992 NPRM in the referenced proceeding.

If there are any questions regarding this filing, please contact me at 201 509-9192.

Yours very truly,

  
John Ligon

No. of Copies rec'd 644  
List A B C D E

Before The  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

**RECEIVED**  
**JUN - 2 1992**  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Billed Party Preference	)	CC Docket No. 92-77
for 0+ InterLATA Calls	)	

**COMMENTS OF COMTEL COMPUTER CORPORATION**

ComTel Computer Corporation ("ComTel"), through its counsel, hereby submits comments in response to the Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding, and, in particular, to the issue of the availability of billing and validation data for proprietary calling cards issued by an interexchange carrier ("IXC"). As the Commission recognized in the NPRM, this issue is driven by a recent effort of AT&T to replace existing calling cards -- both its own and cards issued by LECs -- with a new proprietary AT&T card which can not be validated or billed by another service provider. Recognizing the anti-competitive potential of this AT&T action, the Commission has invited comment on a proposal to prohibit IXCs from accepting proprietary calling cards for 0+ calls -- i.e., such cards could only be used for access code calls.

ComTel is a telecommunications reseller providing services throughout the United States. The Company provides both direct-dial ("1+") and operator-handled ("0+") services, but its primary market is the provision of 0+ services to hospitality and health-care businesses. ComTel's 0+ services are provided through computerized store-and-forward equipment located at each subscriber's business premise which largely automates the handling of operator services calls. Using such technology and maintaining

a high level of cost consciousness throughout its operations, ComTel has been generally able to maintain its rates at or below rates charged by AT&T for comparable services -- certainly no small accomplishment given the tremendous cost advantages enjoyed by AT&T in the provision of operator services.

ComTel strongly supports the Commission's proposal to restrict the use of proprietary calling cards to access-code calling, and submits that the adoption of such a proposal is essential to preserve the competitive market for operator services. At this point, it cannot be seriously disputed that AT&T's campaign of aggressively replacing its existing line-number and RAO based calling cards (as well as those issued by local exchange companies) with a proprietary CIID card which cannot be billed or validated by any entity other than AT&T is leading inexorably to a re-monopolization of the operator services market by AT&T. As has already been demonstrated in earlier filings with the Commission on this issue, and acknowledged in the NPRM as well, AT&T is moving quickly to isolate the vast majority of operator services users from the realm of the competitive market through its aggressive distribution and marketing of its proprietary CIID cards, its massive "Dial 10ATT" advertising campaign, and its open attempts to intimidate aggregators into dropping other operator service providers ("OSPs"). Absent intervention by the Commission, AT&T -- which even in the face of aggressive competition still manages to leverage its long-standing market dominance and billion dollar advertising budget into an approximately 75 percent market share -- is well on its way to driving any meaningful competition from the operator services market.

No matter how efficiently carriers such as ComTel operate, no matter that they may offer service features not offered by AT&T or at lower costs, the bottom line is that, left unchecked in the pursuit of its proprietary CIID campaign, AT&T will, in fairly short order, render such carriers unable to compete in the operator services market because they cannot process the calling cards of the vast majority of users (which calling card users are responsible for a very high percentage of total operator service traffic). And, at least as to operator services, all the progress of the past decade toward achieving competitive telecommunications markets will have been for naught.

At Paragraphs 39-40 of the NPRM, the Commission recognizes that the heart of the proprietary IXC calling card issue lies in AT&T's effort to largely deny competitive operator service providers access to call aggregators -- patently, the heart of the operator services market. In this process, AT&T seeks to intimidate aggregators into avoiding competitive OSPs (and thus converting to AT&T) through thinly disguised threats of substantial commission loss, as well as loss of user goodwill, where such an OSP is used. The simple, and apparently quite credible, basis of this intimidation effort is a description of the large number of users AT&T claims to have already been converted to the proprietary CIID card (and whose calls thus cannot be processed by competitive OSPs) and a reminder of the amount of money and marketing resources that AT&T is focusing on its "Dial 10ATT" campaign. ComTel has certainly experienced significant loss of aggregator customers who openly admitted that they were frightened into switching their accounts to AT&T because of AT&T's "dial around" threat -- i.e., claims by AT&T that its conversion of users to proprietary CIID

cards is highly successful and that such aggregators will be deprived of commissions on calls placed by such users unless presubscribed to AT&T, because otherwise the user must "dial around" the aggregator's presubscribed carrier.

The Commission concludes its discussion of the proprietary IXC card issue with a request for comment on several subissues addressed to implementation of the proposed restriction of proprietary cards to only access-code calling. ComTel offers the following observations on those subissues:

(1) How and by whom the choice between a proprietary access code card and a non-proprietary 0+ card should be made

If this issue is addressed to the issuance of such a card, ComTel suggests that the choice should lie with the entity issuing the card, subject to the stated restriction -- i.e., that a proprietary card could only be used for access code calls. On the other hand, viewed from a user perspective, the choice should be solely that of the user. A user who preferred to carry only a proprietary card and who accepted the limitation on use of such a card to only access code calls should be free to do so. Another user who preferred the slightly greater convenience of 0+ dialing would have to choose a non-proprietary calling card, which cards are ubiquitously available from the LECs and, under this proposal, could be expected to be issued by a number of IXCs as well.

(2) How IXCs would distinguish and screen proprietary and non-proprietary card calls

As a practical matter, ComTel believes that this issue is really addressed to AT&T. The crux of the problem which the

Commission is trying to address is that competitive OSPs not only recognize such proprietary cards (in practice the At&T proprietary Card) but cannot process a call based on that call because of the unavailability of validation and billing information. With respect to AT&T's expected claims that it will have to spend billions of dollars to insert a patch into its 0+ call processing software in order to make such a distinction, two observations are merited. First, AT&T chose to develop the proprietary card to serve its own, not the public's interest. It should not be now heard to complain that a restriction on the use of such cards required to serve the public interest will necessitate some modification of its call processing software. Second, AT&T always has the choice of offering its calling card on a nonproprietary basis and thereby avoiding any necessity for making such a distinction.

(3) Whether carriers should be obligated merely to instruct proprietary cardholders to dial access codes, or whether they should also be required to reject 0+ calls by customers using proprietary calling cards

Without question, if the restriction on using proprietary cards for 0+ calls is to have any vitality, it must be made mandatory. It is completely unrealistic to think that an instruction in AT&T's letter transmitting a user's new proprietary card to the effect that the user should dial an access code when using the card is going to prevent the vast majority of such users from using the card for 0+ calls, particularly when the "word on the street" will certainly be that such a restricted dialing pattern is not necessary. And for the substantial base of users already using such a proprietary card and accustomed to dialing on a 0+ basis, a

letter or billing insert advising that future calls with the card should be dialed using an access code will be totally ignored.

(4) What information would have to be made available to enable OSPs to carry and bill for non-proprietary 0+ calls

The key information requirements for handling calls billed to non-proprietary calling cards are validation information and information with which the OSP can bill the call -- either itself or through a clearing house. ComTel notes that the Commission has resolved the issue of validation as to LEC joint-use calling cards in the companion proceeding in CC Docket 91-115, and submits that the policies adopted there are equally applicable to such non-proprietary IXC cards. The Commission has also called for supplemental comments in CC Docket 91-115 on the issue of the circumstances in which the billing name and address associated with a calling card should be made available to an OSP, and the policies ultimately adopted there should be equally applicable to non-proprietary IXC cards.

(5) The impact the above-described proposal would have on consumers

The answer here is simple. The proposal will preserve competition in the operator services market. Competition inherently benefits consumers. While there have unquestionably been some aberrations in terms of consumer benefit during the early stages of competitive development in this market, such problems have been largely addressed by a combination of regulatory oversight and market forces. Certainly a return to monopoly control of the market by AT&T

is not an appropriate solution to such problems.

(6) The impact this proposal might have on the costs and benefits of billed party preference or the timeliness with which it could be implemented

Inasmuch as billed party preference is being implemented exclusively by the LECs, which have indicated no disposition to issue proprietary calling cards, the impact of this proposal on either the costs or timing of such implementation would seem to be either non-existent or at least negligible. Nor does ComTel see any real linkage between this proposal and the possible benefits of billed party preference. At bottom, this proposal is addressed to the efforts of an overwhelmingly dominant carrier to leverage its market power and essentially unlimited financial resources to freeze competition out of one of its markets. Whatever the merits of billed party preference, the concept is addressed to a completely different set of issues (for which the Commission will shortly be receiving comment).

In sum, ComTel is pleased that the Commission seems to have recognized that AT&T's deployment of its proprietary calling card, including its associated marketing and advertising campaigns, represents a clear and present danger to the continued existence of competition in the operator services market. AT&T's anti-competitive efforts have consistently been manifested in a skillful and seductive campaign to convince consumers and regulators alike that competition does not work in the operator services market, while at the same time introducing as many roadblocks to the development of competition as possible. Its proprietary CIID card program clearly represents the latest chapter in that effort.

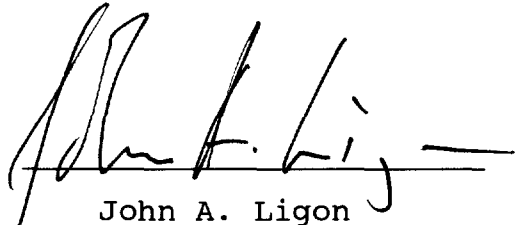


ComTel therefore urges the Commission to adopt the relief proposed in the NPRM.

Respectively submitted,

COMTEL COMPUTER CORPORATION

By

A handwritten signature in black ink, appearing to read "John A. Ligon", is written over a horizontal line. The signature is stylized with a large initial "J" and a long horizontal stroke at the end.

John A. Ligon

Law Office of John A. Ligon  
128 Mount Hebron Avenue  
Post Office Box 880  
Upper Montclair, NJ 07043  
201 509-9192

**CERTIFICATE OF SERVICE**

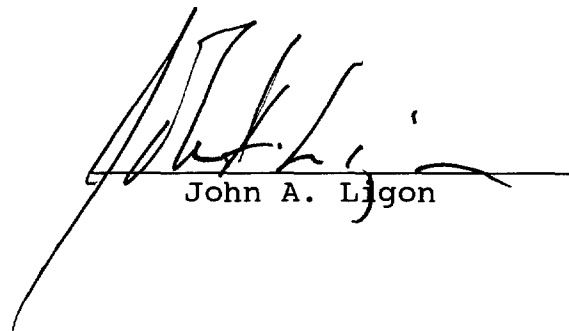
I hereby certify that I served copies of the foregoing Comments of ComTel Computer Corporation on the following persons by depositing such copies with the United States Postal Service properly address and postage prepaid:

Cheryl A. Tritt  
Chief  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

Kathleen B. Levitz  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

Colleen Boothby  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

Gary Phillips  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

  
John A. Ligon

Dated: June 1, 1992